

STATE OF NEW YORK

5994--A

2017-2018 Regular Sessions

IN SENATE

May 9, 2017

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting manufacturers and distributors from providing certain portable electronic devices for sale in this state; and to amend the vehicle and traffic law, in relation to eliminating the exemption granted to certain persons relating to the use of portable devices

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section
2 390-d to read as follows:

3 § 390-d. Distribution of portable electronic devices. 1. For the
4 purposes of this section, "portable electronic device" shall mean any
5 hand-held mobile telephone, as defined by subdivision one of section
6 twelve hundred twenty-five-c of the vehicle and traffic law, personal
7 digital assistant (PDA), handheld device with mobile data access, laptop
8 computer, pager, broadband personal communication device, two-way
9 messaging device, electronic game, portable computing device, or any
10 other electronic device which can be used to input, write, send,
11 receive, or read text for present or future communication.

12 2. On and after January first, two thousand twenty-one, no manufactur-
13 er or distributor shall provide for sale in this state any portable
14 electronic device, unless the ability of such device to input, write,
15 send, receive and read text, digital information and images when the
16 holder of such device is operating a motor vehicle traveling at ten or
17 more miles an hour.

18 3. Any manufacturer or distributor which violates the provisions of
19 subdivision two of this section, and any person who sells a portable

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 electronic device provided in violation of such subdivision shall be
2 subject to a civil penalty of five hundred dollars for each device.

3 § 2. Subdivisions 1, 3 and 4 of section 1225-d of the vehicle and
4 traffic law, subdivision 1 as amended by section 6 and subdivision 4 as
5 amended by section 10 of part C of chapter 58 of the laws of 2013, and
6 subdivision 3 as added by chapter 403 of the laws of 2009, are amended
7 to read as follows:

8 1. Except as otherwise provided in this section, no person shall oper-
9 ate a motor vehicle while using any portable electronic device while
10 such vehicle is in motion; provided, however, that no person shall oper-
11 ate a commercial motor vehicle while using any portable electronic
12 device on a public highway including while temporarily stationary
13 because of traffic, a traffic control device, or other momentary delays.

14 ~~[Provided further, however, that a person shall not be deemed to be~~
15 ~~operating a commercial motor vehicle while using a portable electronic~~
16 ~~device on a public highway when such vehicle is stopped at the side of,~~
17 ~~or off, a public highway in a location where such vehicle is not other-~~
18 ~~wise prohibited from stopping by law, rule, regulation or any lawful~~
19 ~~order or direction of a police officer.]~~

20 3. Subdivision one of this section shall not apply to ~~[(a)]~~ the use of
21 a portable electronic device for the sole purpose of communicating with
22 any of the following regarding an emergency situation: an emergency
23 response operator; a hospital; a physician's office or health clinic; an
24 ambulance company or corps; a fire department, district or company; or a
25 police department~~[(b) any of the following persons while in the~~
26 ~~performance of their official duties: a police officer or peace officer;~~
27 ~~a member of a fire department, district or company; or the operator of~~
28 ~~an authorized emergency vehicle as defined in section one hundred one of~~
29 ~~this chapter].~~

30 4. A person who holds a portable electronic device in a conspicuous
31 manner while operating a motor vehicle or while operating a commercial
32 motor vehicle on a public highway including while temporarily stationary
33 because of traffic, a traffic control device, or other momentary delays
34 ~~[but not including when such commercial motor vehicle is stopped at the~~
35 ~~side of, or off, a public highway in a location where such vehicle is~~
36 ~~not otherwise prohibited from stopping by law, rule, regulation or any~~
37 ~~lawful order or direction of a police officer]~~ is presumed to be using
38 such device~~[(b) any of the following persons while in the~~
39 ~~performance of their official duties: a police officer or peace officer;~~
40 ~~a member of a fire department, district or company; or the operator of~~
41 ~~an authorized emergency vehicle as defined in section one hundred one of~~
42 ~~this chapter].~~ The presumption established by this subdivi-
43 sion is rebuttable by evidence tending to show that the operator was not
44 using the device within the meaning of this section.

46 § 3. This act shall take effect on the thirtieth day after it shall
47 have become a law.